

**STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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| | : | Chapter 9 |
| In re | : | |
| | : | Case No. 13-53846 |
| CITY OF DETROIT, MICHIGAN, | : | |
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| Debtor. | : | Hon. Steven W. Rhodes |
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***EX PARTE* MOTION OF OFFICIAL RETIREE COMMITTEE FOR AN ORDER
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE RULE 9006 AND
LOCAL RULE 9006-1 ENLARGING TIME TO FILE AN OBJECTION**

The Official Retiree Committee (the “Committee”), hereby moves the Court, through its undersigned counsel, for entry of an order pursuant to Federal Rule of Bankruptcy Procedure 9006(b) and Local Rule 9006-1(b) enlarging time for the Committee to file an objection to the City of Detroit, Michigan’s (the “City” or the “Debtor”) Motion for Entry of an Order (I) Authorizing the Assumption of that Certain Forbearance and Optional Termination Agreement Pursuant to Section 365(a) of the Bankruptcy Code, (II) Approving Such Agreement Pursuant to Rule 9019, and (III) Granting Related Relief (the “Assumption Motion”). In support of this Motion, the Committee respectfully represents as follows:

BACKGROUND

1. On July 18, 2013 (the “Filing Date”), the Debtor filed its petition under Chapter 9 of Title 11 of the United States Code. On the same day as the Filing Date, the Debtor also filed its Assumption Motion.

2. On August 2, 2013 the Court entered its Order Establishing Dates and Deadlines Regarding the Debtor's Motion to Assume Lease or Executory Contract [Dkt #17 corrected by Dkt #157] (the "August 2 Order") setting August 16, 2013 as the response deadline and the deadline for the Debtor to file its lists of exhibits and witnesses. Deposition of the Debtor's witnesses were scheduled to be completed by August 30. The hearing on the Assumption was scheduled for September 9, 2013. As set by the August 2 Order, most of the discovery and responsive pleading was to be completed before the Committee was formed and had retained counsel.

3. By Order dated August 2, 2013, the Court directed the appointment of an official committee for retired employees pursuant to section 1102(a)(2). The Committee was formed and parties were appointed thereto on or about August 22, 2013. The Committee selected and engaged counsel on August 28, 2013. At a hearing on that date, on request of the Retired Detroit Police and Fire Fighters Association, the Court authorized the Committee to participate in the discovery and mediation.

4. By a series of Orders, the Assumption Motion was submitted to the Honorable Gerald E. Rosen, United States District Chief Judge for mediation. The Committee, through counsel, has attended mediation sessions and discussions with Judge Perris. The Committee has also attended depositions of the Debtor's witnesses.

5. The Committee now seeks to be heard on behalf of its thousands of constituents.

REQUEST FOR RELIEF

6. The Committee is requesting an order enlarging the Committee's time to file its objection to the Assumption Motion to September 16, 2013, pursuant to Rule 9006(b) and Local Rule 9006-1(b).

7. Rule 9006(b)(1) allows for post-deadline enlargement of time where the failure to act was the result of excusable neglect.

8. In *Pioneer Inv. Services Co. v. Brunswick Associates Ltd. Partnership*, the Supreme Court interpreting 9006(b) ruled that courts are permitted to accept on motion late filings caused by, among other things, intervening circumstances beyond the party's control. 507 U.S. 380, 388 (1993). The Committee submits that the timing of its appointment was beyond its control and, once appointed, it moved quickly to organize itself and engage counsel.

9. By the time the Committee was formed and counsel engaged, the Assumption Motion had been pending for over a month and the parties had already been engaged in discovery.

10. The Assumption Motion was filed on the same day that the Debtor commenced this Chapter 9. Other parties in interest in this case began filing objections to the Assumption Motion shortly thereafter.

11. The Committee was not formed until August 22, 2013 and, therefore, did not have an opportunity to file an objection to the Assumption Motion.

12. Based on the foregoing, the Committee is requesting that the Court enlarge the time to September 16, 2013, to submit an objection to the Assumption Motion.

13. The Committee's objection is concise and promulgates arguments not made by other parties. A copy of the objection is attached hereto as Exhibit 2.

14. The timing of the Committee's objection will not prejudice or harm other parties.

15. On September 13, 2013, Dentons US LLP contacted counsel to the parties who have objected to the Assumption Motion (the "Objecting Parties") to obtain acquiescence to the

Committee interposing an objection at this time. None of the objecting parties have objected to the Committee's filing an objection at this time.

16. Dentons has also contacted counsel to the Debtor to obtain acquiescence to the Committee filing an objection. Debtor's counsel has advised that it has no objection.

WHEREFORE, the Committee respectfully requests entry of an order (i) authorizing it to heard in the contested matter regarding the Assumption Motion, (ii) enlarging its time to file an objection to September 16, 2013, and (iii) granting such other relief as the Court deems proper.

Respectfully submitted,

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Dated: September 16, 2013

Counsel for the Official Committee of Retirees